

**THE CITY OF
EAST ORANGE, NEW JERSEY
ORDINANCE NO. 32 OF 2020**

THIS ORDINANCE SECURES BONDS OR OTHER OBLIGATIONS ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THE REDEVELOPMENT AREA BOND FINANCING LAW, N.J.S.A. 40A:12A-64 ET SEQ., AND THE LIEN HEREOF IN FAVOR OF THE OWNERS OF SUCH BONDS OR OTHER OBLIGATIONS IS A MUNICIPAL LIEN SUPERIOR TO ALL OTHER NON-MUNICIPAL LIENS HEREAFTER RECORDED

AN ORDINANCE PROVIDING FOR THE SPECIAL ASSESSMENT OF THE COST OF CERTAIN STORMWATER AND SANITARY SEWER IMPROVEMENTS AND ENVIRONMENTAL REMEDIATION IN THE AREA OF 533 DR. MARTIN LUTHER KING, JR. BOULEVARD, ALSO IDENTIFIED AS BLOCK 683, LOT 1, IN THE CITY OF EAST ORANGE, IN THE COUNTY OF ESSEX, STATE OF NEW JERSEY, AUTHORIZING THE SUBSIDY OF CERTAIN NON-RECOURSE BONDS OR NOTES TO BE ISSUED IN CONNECTION THEREWITH IN AN AMOUNT NOT TO EXCEED \$9,500,000, AND AUTHORIZING THE EXECUTION OF CERTAIN AGREEMENTS IN CONNECTION THEREWITH

WHEREAS, the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "**Redevelopment Law**") authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment; and

WHEREAS, the Redevelopment Law confers certain contract, planning and financial powers upon a redevelopment entity, as defined at Section 3 of the Redevelopment Law, in order to implement redevelopment plans adopted pursuant thereto; and

WHEREAS, on December 27, 2011, the City Council of the City of East Orange (the "**City**") adopted Resolution 357 declaring that all of the Urban Enterprise Zone ("**UEZ**") areas within the City meet the statutory criteria to qualify as an area in need of redevelopment (the "**Redevelopment Area**"); and

WHEREAS, on February 27, 2012, the City Council adopted Ordinance No. 5 of 2012 approving a redevelopment plan for all UEZ areas within the City (the "**Original UEZ Redevelopment Plan**"); and

WHEREAS, on September 26, 2017, the City Council adopted Ordinance No. 31 of 2017, amending the Original UEZ Redevelopment Plan to clarify that it applies to properties that are subject to another redevelopment plan, and that the land use regulations contained in such other redevelopment plans shall govern (the Original UEZ Redevelopment Plan, as amended, the "**Redevelopment Plan**"); and

WHEREAS, the City has elected to act as the redevelopment entity to effectuate the Redevelopment Plan; and

WHEREAS, the City has authorized a redevelopment agreement with Brick Church Developers LLC (the "**Entity**") to redevelop various parcels within the Redevelopment Area including but not limited to: 533 Dr. Martin Luther King, Jr. Boulevard, also identified as Block 683, Lot 1 (the "**Property**"); and

WHEREAS, the Property is located within the Redevelopment Area and governed by the Redevelopment Plan; and

WHEREAS, in order to facilitate the development of the Property and the surrounding parcels, the Entity, together with its affiliate Brick Church Urban Renewal I LLC, wishes to undertake certain improvements to the stormwater system and the sanitary sewer system, in addition to certain environmental remediation, all in the area of or relating to the Property, which will improve the City's overall water quality and stormwater and sanitary sewer infrastructure (collectively, the "**Infrastructure Improvements**"); and

WHEREAS, the Infrastructure Improvements, the cost of which is estimated not to exceed \$9,000,000, relate to that certain master condominium unit 1A1 ("**Unit 1A1**") to be located upon a portion of the Property (such portion the "**1A1 Property**"); and

WHEREAS, the Infrastructure Improvements benefit the Property, and the total cost of the Infrastructure Improvements are estimated not to exceed \$9,000,000 (the "**Infrastructure Improvements Costs**"); and

WHEREAS, the Entity wishes to pursue funding for the Infrastructure Improvements through the New Jersey Infrastructure Bank (the "**I-Bank**"), and has requested in connection therewith that the City: (i) impose a special assessment upon the 1A1 Property with respect to \$9,000,000 of the Infrastructure Improvements Costs (the "**Special Assessment**") pursuant to the Redevelopment Law, the Redevelopment Area Bond Financing Law (N.J.S.A. 40A:12A-67 et seq., the "**RAB Law**") and the Local Improvements Law (N.J.S.A. 40:56-1 et seq., the "**Local Improvements Law**"); (ii) issue non-recourse bonds or notes to the I-Bank (the "**Bonds**") pursuant to the Redevelopment Law and the RAB Law; (iii) pledge the Special Assessment to the trustee for the Bonds in order to secure payment of the debt service on the Bonds; and (iv) authorize subsidy of the Bonds pursuant to Section 41 of the Redevelopment Law, as further described herein; and

WHEREAS, the City has determined to authorize the imposition of the Special Assessment and the subsidy of the Bonds relating thereto,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EAST ORANGE, IN THE COUNTY OF ESSEX, NEW JERSEY AS FOLLOWS:

Section 1. The recitals hereof are incorporated by reference as it is set forth at length herein.

Section 2. The Infrastructure Improvements shall be undertaken by the Entity and the Infrastructure Improvements Costs shall be specially assessed against the Property in accordance with the Redevelopment Law, the RAB Law, and the Local Improvements Law. Notice is hereby given to the owner of Block 683, Lot 1 that the City intends to make and levy special assessments against a portion of such property as follows:

Amount: The Infrastructure Improvements Costs in the amount of \$9,000,000, together with the soft costs and financing costs relating thereto, including but not limited to the debt service due on the Bonds, shall collectively be deemed the "benefit conferred" by the Infrastructure Improvements, and such benefit conferred shall equal the amount of the Special Assessment.

Payment Dates and Amounts: The Special Assessment shall equal the debt service on the Bonds and the Special Assessment due to the City in each year shall be paid to the City in four equal quarterly installments on February 1, May 1, August 1, and November 1 in such year. The Special Assessment shall have a thirty-year term or such shorter term as is coterminous with the term of the Bonds. The Entity or successor owner of the Property shall make such payments promptly without any need for notice from the City with respect to same.

Special Assessment Agreement: The form of Special Assessment Agreement attached hereto as Exhibit A is hereby approved, with such changes, revisions or alterations therefor as may be approved by the officer executing the same after consultation with the City's counsel, such approval to be conclusively evidenced by the execution thereof.

Section 3. To the extent that the Special Assessment received on any date is insufficient to pay the regularly scheduled debt service on the Bonds, the City hereby authorizes the subsidy of the Bonds in accordance with N.J.S.A. 40A:12A-41 (the "**Subsidy**"). Any Subsidy payment made by the City hereunder shall bear interest at the highest rate permitted by law until repayment by or on behalf of the Entity or successor owner of the Property (the "**Repayments**"). The form of Subsidy Agreement attached hereto as Exhibit B is hereby approved, with such changes, revisions or alterations therefor as may be approved by the officer executing the same after consultation with the City's counsel, such approval to be conclusively evidenced by the execution thereof.

Section 4. This Ordinance and the Special Assessment and Subsidy shall constitute a municipal lien against the Property. Compliance with the Special Assessment, the Subsidy, and Repayments due shall be enforced in accordance with the New Jersey Tax Sale Law, N.J.S.A. 54:5-1 et seq., including, if applicable, by means of in rem foreclosure.

Section 5. The Bonds may be subject to acceleration pursuant to N.J.S.A. 40A:12A-66(c), unless otherwise set forth in the indenture of trust or supplemental indenture of trust governing the Bonds (collectively, the "Indenture"). All other terms of the Bonds shall be as set forth in the Indenture, and shall not be inconsistent herewith.

Section 6. Each of the Mayor, City Clerk, Business Administrator and Chief Financial Officer are authorized to execute such agreements, documents and certificates, and take such actions, as may be necessary to carry out the terms of this Ordinance and the subsidy of the Bonds.

Section 7. This Ordinance shall take effect as provided by law.

Attachments:

Exhibit A

Form of Special Assessment Agreement

Exhibit B

Form of Subsidy Agreement